

AMENDED IN SENATE AUGUST 18, 2014

AMENDED IN SENATE MAY 23, 2014

AMENDED IN ASSEMBLY APRIL 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2562

Introduced by Assembly Member Fong

February 21, 2014

An act to amend Section 5091 of the Education Code, to amend Sections 100, 105, 2102, 2107, 9020, 9285, ~~11302~~, 14300, 17301, 17302, and 19202 of, and to repeal Section 10552 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL’S DIGEST

AB 2562, as amended, Fong. Elections.

(1) Existing law provides that whenever a vacancy occurs or a resignation containing a deferred effective date has been filed with the county superintendent of schools, the school district or community college district governing board is required, within 60 days, to either order an election or make a provisional appointment. Existing law provides that if a provisional appointment is made, the registered voters of the district may, within 30 days, petition for a special election to fill the vacancy, and requires a specified number of registered voters of the district to sign the petition.

This bill would clarify the meaning of “registered voters” of the district for purposes of those provisions.

(2) Under existing law, a person may not be registered to vote except by affidavit of registration. Existing law requires a properly executed registration to be deemed effective upon receipt of the affidavit of

registration by the county elections official if the affidavit is postmarked, submitted to the Department of Motor Vehicles or a voter registration agency, or delivered to the county elections official by other means on or before the 15th day prior to the election.

This bill would also require the registration to be deemed effective upon receipt of the affidavit by the county elections official if the affidavit is submitted electronically on the Internet Web site of the Secretary of State on or before the 15th day prior to the election.

(3) Existing law entitles only an eligible registered voter to sign an initiative, referendum, recall, nominating petition or paper, or any other petition or paper and requires each signer to personally affix his or her signature, printed name, and place of residence on the petition or paper. Existing law requires the elections official, when verifying signatures on a petition or paper, to determine that the residence address on the petition or paper is the same as the residence address on the affidavit of registration. If the addresses are different, the petition or paper does not specify the residence address, or certain information is not included, existing law requires that the affected signature not be counted as valid.

This bill would prohibit an elections official who is verifying signatures on a petition or paper from invalidating a signature for an incomplete or inaccurate apartment or unit number in the residence address.

(4) Existing law requires the county elections official to file with the Secretary of State a statement containing specified information for each election in the county held pursuant to the Uniform District Election Law. Existing law requires the county elections official to file the statement no later than December 31 immediately following a general district election.

This bill would repeal these provisions.

~~(5) Existing provisions of the California Constitution and statute authorize the recall of state and local officers. Under existing law, if a vacancy occurs in office after a recall petition is filed against the vacating officer, the recall election is required to proceed. The vacancy in that office is required to be filled as provided by law, but a person appointed to fill the vacancy holds office only until a successor is selected and qualifies for that office.~~

~~This bill would delete and correct erroneous cross-references in this provision of law.~~

(6)

(5) Existing law regulates generally the issuing of ballots on election day as well as the use of direct recording electronic voting systems. Existing law defines the terms “direct recording electronic voting system” and “paper record copy” for purposes of these provisions.

This bill would correct erroneous cross references to the code section that defines those terms.

This bill would incorporate additional changes to Section 2102 of the Elections Code proposed by SB 113 that would become operative only if SB 113 and this bill are both chaptered and become effective on or before January 1, 2015, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5091 of the Education Code is amended
2 to read:

3 5091. (a) (1) If a vacancy occurs, or if a resignation has been
4 filed with the county superintendent of schools containing a
5 deferred effective date, the school district or community college
6 district governing board shall, within 60 days of the vacancy or
7 the filing of the deferred resignation, either order an election or
8 make a provisional appointment to fill the vacancy. A governing
9 board member may not defer the effective date of his or her
10 resignation for more than 60 days after he or she files the
11 resignation with the county superintendent of schools.

12 (2) In the event that a governing board fails to make a
13 provisional appointment or order an election within the prescribed
14 60-day period as required by this section, the county superintendent
15 of schools shall order an election to fill the vacancy.

16 (b) When an election is ordered, it shall be held on the next
17 established election date provided pursuant to Chapter 1
18 (commencing with Section 1000) of Division 1 of the Elections
19 Code not less than 130 days after the order of the election.

20 (c) (1) If a provisional appointment is made within the 60-day
21 period, the registered voters of the district may, within 30 days
22 from the date of the appointment, petition for the conduct of a
23 special election to fill the vacancy. A petition shall be deemed to
24 bear a sufficient number of signatures if signed by at least the
25 number of registered voters of the district equal to 1 ½ percent of

1 the number of registered voters of the district at the time of the
2 last regular election for governing board members, or 25 registered
3 voters, whichever is greater. However, in districts with less than
4 2,000 registered voters, a petition shall be deemed to bear a
5 sufficient number of signatures if signed by at least 5 percent of
6 the number of registered voters of the district at the time of the
7 last regular election for governing board members.

8 (2) The petition shall be submitted to the county superintendent
9 of schools having jurisdiction who shall have 30 days to verify the
10 signatures. If the petition is determined to be legally sufficient by
11 the county superintendent of schools, the provisional appointment
12 is terminated, and the county superintendent of schools shall order
13 a special election to be conducted no later than the 130th day after
14 the determination. However, if an established election date, as
15 defined in Section 1000 of the Elections Code, occurs between the
16 130th day and the 150th day following the order of the election,
17 the county superintendent of schools may order the special election
18 to be conducted on the established election date.

19 (3) For purposes of this section, “registered voters” means the
20 following:

21 (A) If the district uses the at-large method of election, as defined
22 in subdivision (a) of Section 14026 of the Elections Code,
23 registered voters of the entire school district or community college
24 district.

25 (B) If the district uses district-based elections, as defined in
26 subdivision (b) of Section 14026 of the Elections Code, registered
27 voters of the election district.

28 (d) A provisional appointment made pursuant to subdivision
29 (a) confers all powers and duties of a governing board member
30 upon the appointee immediately following his or her appointment.

31 (e) A person appointed to fill a vacancy shall hold office only
32 until the next regularly scheduled election for district governing
33 board members that is scheduled 130 or more days after the
34 effective date of the vacancy, whereupon an election shall be held
35 to fill the vacancy for the remainder of the unexpired term. A
36 person elected at an election to fill the vacancy shall hold office
37 for the remainder of the term in which the vacancy occurs or will
38 occur.

39 (f) (1) If a petition calling for a special election is circulated,
40 the petition shall meet all of the following requirements:

1 (A) The petition shall contain the estimate of the elections
2 official of the cost of conducting the special election.

3 (B) The name and residence address of at least one, but not
4 more than five, of the proponents of the petition shall appear on
5 the petition, each of which proponents shall be a registered voter
6 of the school district or community college district, as applicable.

7 (C) None of the text or other language of the petition shall
8 appear in less than six-point type.

9 (D) The petition shall be prepared and circulated in conformity
10 with Sections 100 and 104 of the Elections Code.

11 (2) If any of the requirements of this subdivision are not met as
12 to any petition calling for a special election, the county
13 superintendent of schools shall not verify the signatures, nor shall
14 any further action be taken with respect to the petition.

15 (3) No person shall permit the list of names on petitions
16 prescribed by this section to be used for any purpose other than
17 qualification of the petition for the purpose of holding an election
18 pursuant to this section.

19 (4) The petition filed with the county superintendent of schools
20 shall be subject to the restrictions in Section 6253.5 of the
21 Government Code.

22 (g) Elections held pursuant to subdivisions (b) and (c) shall be
23 conducted in as nearly the same manner as practicable as other
24 governing board member elections.

25 SEC. 2. Section 100 of the Elections Code, as enacted by
26 Section 2 of Chapter 920 of the Statutes of 1994, is amended to
27 read:

28 100. (a) Notwithstanding any other provision of law, whenever
29 an initiative, referendum, recall, nominating petition or paper, or
30 any other petition or paper, is required to be signed by voters of a
31 county, city, school district, or special district subject to petitioning,
32 only a person who is an eligible registered voter at the time of
33 signing the petition or paper is entitled to sign it.

34 (b) A signer shall at the time of signing the petition or paper
35 personally affix his or her signature, printed name, and place of
36 residence, including the street and number of the place of residence,
37 and if no street or number for the place of residence exists, then a
38 designation of the place of residence that will enable the location
39 to be readily ascertained. An incomplete or inaccurate apartment
40 or unit number in the signer's residence address shall not invalidate

1 his or her signature pursuant to Section 105. A space at least one
2 inch wide shall be left blank after each name for the use of the
3 elections official in verifying the petition or paper.

4 (c) The part of a petition for the signatures, printed names, and
5 residence addresses of the voters and for the blank spaces for
6 verification purposes shall be numbered consecutively commencing
7 with the number one and continuing through the number of
8 signature spaces allotted to each section. The petition format shall
9 be substantially in the following form:
10

Official
Use
Only

(Print Name)	(Residence Address ONLY)	
1. _____ (Signature)	_____ (City)	
(Print Name)	(Residence Address ONLY)	
2. _____ (Signature)	_____ (City)	

SEC. 3. Section 100 of the Elections Code, as amended by Section 1 of Chapter 364 of the Statutes of 2009, is amended to read:

100. (a) Notwithstanding any other provision of law, whenever an initiative, referendum, recall, nominating petition or paper, or any other petition or paper, is required to be signed by voters of a county, city, school district, or special district subject to petitioning, only a person who is an eligible registered voter at the time of signing the petition or paper is entitled to sign the petition or paper. A person who submits his or her affidavit of registration pursuant to subdivision (d) of Section 2102 is not eligible to sign a petition or paper unless at the time of the signing of the petition or paper he or she is 18 years of age.

(b) A signer shall at the time of signing the petition or paper personally affix his or her signature, printed name, and place of residence, including the street and number of the place of residence, and if no street or number for the place of residence exists, then a designation of the place of residence that will enable the location to be readily ascertained. An incomplete or inaccurate apartment or unit number in the signer's residence address shall not invalidate

his or her signature pursuant to Section 105. A space at least one inch wide shall be left blank after each name for the use of the elections official in verifying the petition or paper.

(c) The part of a petition for the signatures, printed names, and residence addresses of the voters and for the blank spaces for verification purposes shall be numbered consecutively commencing with the number one and continuing through the number of signature spaces allotted to each section. The petition format shall be substantially in the following form:

Official
Use
Only

1 .	(Print Name) _____	(Residence Address ONLY) _____	
	(Signature) _____	(City) _____	
2 .	(Print Name) _____	(Residence Address ONLY) _____	
	(Signature) _____	(City) _____	

SEC. 4. Section 105 of the Elections Code is amended to read:

105. (a) (1) For purposes of verifying a signature on an initiative, referendum, recall, nomination, or other election petition or paper, the elections official shall determine that the residence address on the petition or paper is the same as the residence address on the affidavit of registration. If the addresses are different, or if the petition or paper does not specify the residence address, or, in the case of an initiative or referendum petition, the information specified in Section 9020 is not contained in the petition, the affected signature shall not be counted as valid.

(2) Notwithstanding paragraph (1), the elections official shall not invalidate a signature for an incomplete or inaccurate apartment or unit number in the signer's residence address.

(b) A signature invalidated pursuant to this section shall not affect the validity of another valid signature on the particular petition or paper.

SEC. 5. Section 2102 of the Elections Code, as amended by Section 2 of Chapter 899 of the Statutes of 2000, is amended to read:

2102. (a) A person may not be registered as a voter except by affidavit of registration. The affidavit shall be mailed or delivered to the county elections official and shall set forth all of the facts required to be shown by this chapter. A properly executed registration shall be deemed effective upon receipt of the affidavit by the county elections official if received on or before the 15th day prior to an election to be held in the registrant's precinct. A properly executed registration shall also be deemed effective upon receipt of the affidavit by the county elections official if any of the following apply:

(1) The affidavit is postmarked on or before the 15th day prior to the election and received by mail by the county elections official.

(2) The affidavit is submitted to the Department of Motor Vehicles or accepted by any other public agency designated as a voter registration agency pursuant to the federal National Voter Registration Act of 1993 (42 U.S.C. Sec. 1973gg et seq.) on or before the 15th day prior to the election.

(3) The affidavit is delivered to the county elections official by means other than those described in paragraphs (1) and (2) on or before the 15th day prior to the election.

(4) The affidavit is submitted electronically on the Internet Web site of the Secretary of State pursuant to Section 2196 on or before the 15th day prior to the election.

(b) For purposes of verifying a signature on a recall, initiative, or referendum petition or a signature on a nomination paper or any other election petition or election paper, a properly executed affidavit of registration shall be deemed effective for verification purposes if both of the following conditions are satisfied:

(1) The affidavit is signed on the same date or a date prior to the signing of the petition or paper.

1 (2) The affidavit is received by the county elections official on
2 or before the date on which the petition or paper is filed.

3 (c) Notwithstanding any other law to the contrary, the affidavit
4 of registration required under this chapter shall not be taken under
5 sworn oath, but the content of the affidavit shall be certified as to
6 its truthfulness and correctness, under penalty of perjury, by the
7 signature of the affiant.

8 SEC. 6. Section 2102 of the Elections Code, as amended by
9 Section 2 of Chapter 364 of the Statutes of 2009, is amended to
10 read:

11 2102. (a) A person may not be registered as a voter except by
12 affidavit of registration. The affidavit shall be mailed or delivered
13 to the county elections official and shall set forth all of the facts
14 required to be shown by this chapter. A properly executed
15 registration shall be deemed effective upon receipt of the affidavit
16 by the county elections official if received on or before the 15th
17 day prior to an election to be held in the registrant's precinct. A
18 properly executed registration shall also be deemed effective upon
19 receipt of the affidavit by the county elections official if any of
20 the following apply:

21 (1) The affidavit is postmarked on or before the 15th day prior
22 to the election and received by mail by the county elections official.

23 (2) The affidavit is submitted to the Department of Motor
24 Vehicles or accepted by any other public agency designated as a
25 voter registration agency pursuant to the federal National Voter
26 Registration Act of 1993 (42 U.S.C. Sec. 1973gg et seq.) on or
27 before the 15th day prior to the election.

28 (3) The affidavit is delivered to the county elections official by
29 means other than those described in paragraphs (1) and (2) on or
30 before the 15th day prior to the election.

31 (4) The affidavit is submitted electronically on the Internet Web
32 site of the Secretary of State pursuant to Section 2196 on or before
33 the 15th day prior to the election.

34 (b) For purposes of verifying a signature on a recall, initiative,
35 or referendum petition or a signature on a nomination paper or any
36 other election petition or election paper, a properly executed
37 affidavit of registration shall be deemed effective for verification
38 purposes if both of the following conditions are satisfied:

39 (1) The affidavit is signed on the same date or a date prior to
40 the signing of the petition or paper.

1 (2) The affidavit is received by the county elections official on
2 or before the date on which the petition or paper is filed.

3 (c) Notwithstanding any other law to the contrary, the affidavit
4 of registration required under this chapter shall not be taken under
5 sworn oath, but the content of the affidavit shall be certified as to
6 its truthfulness and correctness, under penalty of perjury, by the
7 signature of the affiant.

8 (d) A person who is at least 17 years of age and otherwise meets
9 all eligibility requirements to vote may submit his or her affidavit
10 of registration as prescribed by this section. A properly executed
11 registration made pursuant to this subdivision shall be deemed
12 effective as of the date the affiant will be 18 years of age, if the
13 information in the affidavit of registration is still current at that
14 time. If the information provided by the affiant in the affidavit of
15 registration is not current at the time that the registration would
16 otherwise become effective, for his or her registration to become
17 effective, the affiant shall provide the current information to the
18 proper county elections official as prescribed by this chapter.

19 *SEC. 6.5. Section 2102 of the Elections Code, as amended by*
20 *Section 2 of Chapter 364 of the Statutes of 2009, is amended to*
21 *read:*

22 2102. (a) A person ~~may~~ *shall* not be registered as a voter except
23 by affidavit of registration. The affidavit shall be mailed or
24 delivered to the county elections official and shall set forth all of
25 the facts required to be shown by this chapter. A properly executed
26 registration shall be deemed effective upon receipt of the affidavit
27 by the county elections official if received on or before the 15th
28 day prior to an election to be held in the registrant's precinct. A
29 properly executed registration shall also be deemed effective upon
30 receipt of the affidavit by the county elections official if any of
31 the following apply:

32 (1) The affidavit is postmarked on or before the 15th day prior
33 to the election and received by mail by the county elections official.

34 (2) The affidavit is submitted to the Department of Motor
35 Vehicles or accepted by any other public agency designated as a
36 voter registration agency pursuant to the *federal* National Voter
37 Registration Act of 1993 (42 U.S.C. Sec. ~~1973gg~~ *1973gg et seq.*)
38 on or before the 15th day prior to the election.

(3) The affidavit is delivered to the county elections official by means other than those described in ~~paragraphs~~ *paragraph (1) or and (2)* on or before the 15th day prior to the election.

(4) *The affidavit is submitted electronically on the Internet Web site of the Secretary of State pursuant to Section 2196 on or before the 15th day prior to the election.*

(b) For purposes of verifying ~~signatures~~ *a signature* on a recall, initiative, or referendum petition or ~~signatures~~ *a signature* on a nomination paper or any other election petition or election paper, a properly executed affidavit of registration shall be deemed effective for verification purposes if both of the following conditions are satisfied:

(1) The affidavit is signed on the same date or a date prior to the signing of the petition or paper.

(2) The affidavit is received by the county elections official on or before the date on which the petition or paper is filed.

(c) Notwithstanding any other ~~provision of law to the contrary,~~ the affidavit of registration required under this chapter ~~may~~ *shall* not be taken under sworn oath, but the content of the affidavit shall be certified as to its truthfulness and correctness, under penalty of perjury, by the signature of the affiant.

(d) A person who is at least ~~17~~ *16* years of age and otherwise meets all eligibility requirements to vote may submit his or her affidavit of registration as prescribed by this section. A properly executed registration made pursuant to this subdivision shall be deemed effective as of the date the affiant will be 18 years of age, if the information in the affidavit of registration is still current at that time. If the information provided by the affiant in the affidavit of registration is not current at the time that the registration would otherwise become effective, for his or her registration to become effective, the affiant shall provide the current information to the proper county elections official as prescribed by this chapter.

SEC. 7. Section 2107 of the Elections Code, as amended by Section 3 of Chapter 899 of the Statutes of 2000, is amended to read:

2107. (a) Except as provided in subdivision (b), the county elections official shall accept affidavits of registration at all times except during the 14 days immediately preceding an election, when registration shall cease for that election as to electors residing in the territory within which the election is held. Transfers of

1 registration for an election may be made from one precinct to
2 another precinct in the same county at any time registration is in
3 progress in the precinct to which the elector seeks to transfer.

4 (b) The county elections official shall accept an affidavit of
5 registration executed as part of a voter registration card in the
6 forthcoming election if the affidavit is executed on or before the
7 15th day prior to the election, and if any of the following apply:

8 (1) The affidavit is postmarked on or before the 15th day prior
9 to the election and received by mail by the county elections official.

10 (2) The affidavit is submitted to the Department of Motor
11 Vehicles or accepted by any other public agency designated as a
12 voter registration agency pursuant to the federal National Voter
13 Registration Act of 1993 (42 U.S.C. Sec. 1973gg et seq.) on or
14 before the 15th day prior to the election.

15 (3) The affidavit is delivered to the county elections official by
16 means other than those described in paragraphs (1) and (2) on or
17 before the 15th day prior to the election.

18 (4) The affidavit is submitted electronically on the Internet Web
19 site of the Secretary of State pursuant to Section 2196 on or before
20 the 15th day prior to the election.

21 SEC. 8. Section 2107 of the Elections Code, as amended by
22 Section 1 of Chapter 497 of the Statutes of 2012, is amended to
23 read:

24 2107. (a) Except as provided in subdivision (b) and Article
25 4.5 (commencing with Section 2170), the county elections official
26 shall accept affidavits of registration at all times except during the
27 14 days immediately preceding an election, when registration shall
28 cease for that election as to electors residing in the territory within
29 which the election is held. Transfers of registration for an election
30 may be made from one precinct to another precinct in the same
31 county at any time registration is in progress in the precinct to
32 which the elector seeks to transfer.

33 (b) The county elections official shall accept an affidavit of
34 registration executed as part of a voter registration card in the
35 forthcoming election if the affidavit is executed on or before the
36 15th day prior to the election, and if any of the following apply:

37 (1) A mailed affidavit is postmarked on or before the 15th day
38 prior to the election and received by mail by the county elections
39 official before the close of the polls on election day.

(2) The affidavit is submitted to the Department of Motor Vehicles or accepted by any other public agency designated as a voter registration agency pursuant to the federal National Voter Registration Act of 1993 (42 U.S.C. Sec. 1973gg et seq.) on or before the 15th day prior to the election.

(3) The affidavit is delivered to the county elections official by means other than those described in paragraphs (1) and (2) on or before the 15th day prior to the election.

(4) The affidavit is submitted electronically on the Internet Web site of the Secretary of State pursuant to Section 2196 on or before the 15th day prior to the election.

SEC. 9. Section 9020 of the Elections Code is amended to read:

9020. (a) The petition sections shall be designed so that each signer shall personally affix all of the following:

(1) His or her signature.

(2) His or her printed name.

(3) His or her residence address, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained. An incomplete or inaccurate apartment or unit number in his or her residence address shall not invalidate his or her signature pursuant to Section 105.

(4) The name of his or her incorporated city or unincorporated community.

(b) Only a person who is a qualified registered voter at the time of signing the petition is entitled to sign it.

(c) The number of signatures attached to each section shall be at the pleasure of the person soliciting the signatures.

SEC. 10. Section 9285 of the Elections Code is amended to read:

9285. (a) (1) When an argument in favor and an argument against a measure have been selected to be printed in the ballot pamphlet, the elections official shall send a copy of the argument in favor of the measure to the authors of the argument against the measure and a copy of an argument against the measure to the authors of the argument in favor of the measure.

(2) The author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal argument or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument.

(3) No rebuttal argument may exceed 250 words.

1 (4) A rebuttal argument relating to a city measure shall be filed
2 with the elections official no later than 10 days after the final filing
3 date for primary arguments.

4 (5) A rebuttal argument relating to a city measure may not be
5 signed by more than five persons and shall be printed in the same
6 manner as a direct argument and shall immediately follow the
7 direct argument which it seeks to rebut.

8 (b) Subdivision (a) applies only if, not later than the day on
9 which the legislative body calls an election, the legislative body
10 adopts its provisions by majority vote, in which case subdivision
11 (a) applies at the next ensuing municipal election and at each
12 municipal election thereafter, unless later repealed by the legislative
13 body in accordance with the procedures of this subdivision.

14 SEC. 11. Section 10552 of the Elections Code is repealed.

15 ~~SEC. 12. Section 11302 of the Elections Code is amended to~~
16 ~~read:~~

17 ~~11302. If a vacancy occurs in an office after a recall petition~~
18 ~~is filed against the vacating officer, the recall election shall~~
19 ~~nevertheless proceed. The vacancy shall be filled as provided by~~
20 ~~law, but any person appointed to fill the vacancy shall hold office~~
21 ~~only until a successor is selected in accordance with Article 4~~
22 ~~(commencing with Section 11381), and the successor qualifies for~~
23 ~~that office.~~

24 ~~SEC. 13.~~

25 SEC. 12. Section 14300 of the Elections Code is amended to
26 read:

27 14300. (a) In the case of an election for a state or federal office,
28 each polling place using a direct recording electronic voting system,
29 as defined by Section 19271, the elections official shall provide
30 paper ballots equivalent to the following percentages:

31 (1) For a statewide general election, no less than 10 percent of
32 the registered voters in the polling place.

33 (2) For a statewide direct primary election, for each partisan
34 ballot form for which at least 10 percent of the registered voters
35 in the polling place are eligible to request, no less than 5 percent
36 of the registered voters in the precinct eligible to request that ballot
37 form at the polling place. For nonpartisan voters, the total number
38 of paper ballots among all ballot forms that they are eligible to
39 request shall be no less than 5 percent of registered nonpartisan
40 voters at the polling place.

1 (3) For any other state or federal election contest, no less than
2 5 percent of registered voters at the polling place.

3 (4) For purposes of this section, the number of registered voters
4 shall be based on the registration on the 88th day prior to the day
5 of the election.

6 (b) The elections official shall establish procedures for the use
7 of the paper ballots described in this section in the event the direct
8 recording electronic voting system becomes nonfunctional.

9 (c) Upon request, the precinct board shall provide a paper ballot
10 to a voter, regardless of the availability of the direct recording
11 electronic voting system, as long as supplies remain available.

12 (d) The paper ballots described in this section may consist of
13 provisional ballots.

14 (e) Any vote cast on a provisional ballot subject to this section
15 by an otherwise qualified voter shall be counted as a regular ballot
16 and shall not be subject to the requirements of Section 14310.

17 ~~SEC. 14.~~

18 *SEC. 13.* Section 17301 of the Elections Code is amended to
19 read:

20 17301. (a) The following provisions shall apply to those
21 elections where candidates for one or more of the following offices
22 are voted upon: President, Vice President, United States Senator,
23 and United States Representative.

24 (b) The packages containing the following ballots and
25 identification envelope shall be kept by the elections official,
26 unopened and unaltered, for 22 months from the date of the
27 election:

28 (1) Voted polling place ballots.

29 (2) Paper record copies, as defined by Section 19271, if any, of
30 voted polling place ballots.

31 (3) Voted vote by mail voter ballots.

32 (4) Vote by mail voter identification envelopes.

33 (5) Voted provisional voter ballots.

34 (6) Provisional ballot voter identification envelopes.

35 (7) Spoiled ballots.

36 (8) Canceled ballots.

37 (9) Unused vote by mail ballots surrendered by the voter
38 pursuant to Section 3015.

39 (10) Ballot receipts.

(c) If a contest is not commenced within the 22-month period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots, or forgery of vote by mail voters' signatures is not commenced within the 22-month period, either of which may involve the vote of the precinct from which voted ballots were received, the elections official shall have the ballots destroyed or recycled. The packages shall otherwise remain unopened until the ballots are destroyed or recycled.

~~SEC. 15.~~

SEC. 14. Section 17302 of the Elections Code is amended to read:

17302. (a) The following provisions shall apply to all state or local elections not provided for in subdivision (a) of Section 17301. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) The packages containing the following ballots and identification envelopes shall be kept by the elections official, unopened and unaltered, for six months from the date of the election:

- (1) Voted polling place ballots.
- (2) Paper record copies, as defined by Section 19271, if any, of voted polling place ballots.
- (3) Voted vote by mail voter ballots.
- (4) Vote by mail voter identification envelopes.
- (5) Voted provisional voter ballots.
- (6) Provisional ballot voter identification envelopes.
- (7) Spoiled ballots.
- (8) Canceled ballots.
- (9) Unused vote by mail ballots surrendered by the voter pursuant to Section 3015.
- (10) Ballot receipts.

(c) If a contest is not commenced within the six-month period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots, or forgery of vote by mail voters' signatures is not commenced within the six-month period, either of which may involve the vote of the precinct from which voted ballots were received, the elections official shall have the packages destroyed or recycled. The packages shall otherwise remain unopened until the ballots are destroyed or recycled.

1 ~~SEC. 16.~~

2 *SEC. 15.* Section 19202 of the Elections Code is amended to
3 read:

4 19202. (a) Except as authorized by Section 19209, a voting
5 system, in whole or in part, shall not be used unless it has been
6 certified or conditionally approved by the Secretary of State prior
7 to any election at which it is to be used.

8 (b) A voting system that has been tested and approved for use
9 in all elections by the Secretary of State before January 1, 2014,
10 shall be deemed certified or conditionally approved by the
11 Secretary of State and may be used in an election subject to any
12 conditions placed on the use of the voting system by the Secretary
13 of State before January 1, 2014, including conditions imposed in
14 the reapproval documents issued by the Secretary of State in 2007
15 and 2008 following the Top-to-Bottom Review, and its subsequent
16 revisions. The voting systems described in this subdivision shall
17 remain subject to review and decertification by the Secretary of
18 State at any time pursuant to Section 19232.

19 (c) A vendor or county that has submitted a voting system for
20 federal qualification before September 1, 2013, upon obtaining
21 federal qualification before January 1, 2015, may request approval
22 of the voting system from the Secretary of State based on the
23 examination and review requirements in place before January 1,
24 2014.

25 (d) A jurisdiction shall not purchase or contract for a voting
26 system unless it has been certified or conditionally approved by
27 the Secretary of State.

28 (e) Notwithstanding subdivision (d), a local jurisdiction may
29 contract and pay for the following:

30 (1) Research and development of a new voting system that has
31 not been certified or conditionally approved by the Secretary of
32 State and uses only nonproprietary software and firmware with
33 disclosed source code, except for unmodified commercial
34 off-the-shelf software and firmware, as defined in paragraph (1)
35 of subdivision (a) of Section 19209.

36 (2) Manufacture of the minimum number of voting system units
37 reasonably necessary for either of the following purposes:

38 (A) To test and seek certification or conditional approval of the
39 voting system pursuant to Sections 19210 to 19214, inclusive.

1 (B) To test and demonstrate the capabilities of the voting system
2 in a pilot program pursuant to paragraph (2) of subdivision (b) of,
3 and subdivision (c) of, Section 19209.

4 *SEC. 16. Section 6.5 of this bill incorporates amendments to*
5 *Section 2102 of the Elections Code proposed by both this bill and*
6 *SB 113. It shall only become operative if (1) both bills are enacted*
7 *and become effective on or before January 1, 2015, (2) each bill*
8 *amends Section 2102 of the Elections Code, and (3) this bill is*
9 *enacted after SB 113, in which case Section 6 of this bill shall not*
10 *become operative.*